IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 7TH JUNE 2007 / 17TH JYAISHTA 1929

WP(C).No. 22903 of 2005(B)

OS.3/2003 of MUNSIFF COURT, MANJERI

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PETITIONERS:

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1. U.K.MOHAMMED KUTTY @ MAMMEDKUTTY HAJI, S/O.MOHAMMED HAJI, RESIDING AT ELAYANKAVIL HOUSE, CHEEKODE VILLAGE, OMANOOR PST, ERNAD TALUK, MALAPPURAM DISTRICT.

2. FATHIMA KUTTY M.K. W/O.MOHAMMEDKUTTY HAJI, DO. DO.

BY ADV. SRI.T.KRISHNAN UNNI

RESPONDENTS:

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1. AYISHAKUTTY.T. D/O.ABDULLAKUTTY, THEKKEPADATH HOUSE, KEEZHAPARAMB VILLAGE AND POST, AREACODE, ERNAD TALUK, MALAPPURAM DISTRICT.

2. THE TAHSILDAR, ERNAD TALUK, MANJERI.

3. THE ACCOUNTANT GENERAL, STATE OF KERALA TRIVANDRUM.

4. THE ASSISTANT EDUCATIONAL OFFICER, KIZHISSERY, KUZHIMANNA POST, MALAPPURAM DISTRICT.

5. THE MANAGER, A.U.P.SCHOOL, MUNDAKKAL POST, MUNDAKKAL, ERNAD TALUK, MALAPPURAM DISTRICT.

6. THE DISTRICT COLLECTOR, MALAPPURAM.

R1 BY ADV. SRI.T.H.ABDUL AZEEZ
R2 TO R4 & R6 BY GOVT. PLEADER MR.SHYSON P.MANGUZHA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE,J.

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W.P.(C) No.22903 of 2005

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Dated: 7th June, 2007

JUDGMENT

This Writ Petition is remaining defective on the reason that the 6th respondent-District Collector is not served with notice. But I find that for all other public officers who are parties in the Writ Petition the Government Pleader appears. The Government Pleader takes notice on behalf of the 6th respondent also.

2. Heard both sides. It is submitted by the learned counsel for the 1st respondent that the contention that a defendant is not entitled to file the written statement after 90 days of his receiving summons is no longer available to the writ petitioner. I find merit in the above submission of the learned counsel which is supported by the judgment of the Supreme Court in **Kailash v. Nanhku** [2005(2) KLT 623(SC)]. Accordingly, the Writ Petition will stand dismissed.

srd **PIUS C.KURIAKOSE, JUDGE**